

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

MICHAEL MCCARTHY, et al.,

*Plaintiffs,*

v.

CHARLES D. BAKER, in his Official Capacity as  
Governor of the Commonwealth of Massachusetts, et al.,

*Defendants.*

CIVIL ACTION  
NO. 1:20-cv-10701-DPW

CEDRONE, LLC d/b/a SHAWSHEEN FIREARMS, et al.,

*Plaintiffs,*

v.

CHARLES DUANE BAKER, in his capacity as  
GOVERNOR OF THE COMMONWEALTH OF  
MASSACHUSETTS, et al.,

*Defendants.*

CIVIL ACTION  
NO. 1:20-cv-40041-DPW

**SECOND REVISED JOINT STATEMENT AS TO  
ADVANCING TRIAL ON THE MERITS**

**REVISED POSITION OF THE MCCARTHY PLAINTIFFS:**

The *McCarthy* Plaintiffs are in favor of consolidating trial on the merits with the preliminary injunction hearing, so long as no new evidence is submitted to the Court.

**POSITION OF THE CEDRONE PLAINTIFFS:**

The *Cedrone* Plaintiffs are also in favor of consolidating trial on the merits with the preliminary injunction hearing, so long as no new evidence is submitted to the Court.

**REVISED POSITION OF THE COMMONWEALTH DEFENDANTS:**

Although the defendants represented on April 27th that they would not object to consolidation of the preliminary injunction hearing with trial on the merits pursuant to Fed. R. Civ. P. 65(a)(2), provided that no witnesses are called to testify, the defendants now object to consolidation pursuant to Fed. R. Civ. P. 65(a)(2) in light of the extensive new evidence attached the *McCarthy* plaintiffs' reply brief, filed just one business day before the hearing.

The *McCarthy* plaintiffs have introduced 14 new declarations, mostly from non-parties, including a declaration that attempts to provide material that would be appropriate only for an expert report [Doc. 65-12 — Declaration of Massad Ayoob] by attaching these declarations to their Reply. The defendants contest some of the statements included in this new evidence and will not have an opportunity to cross-examine. Accordingly, the defendants would be prejudiced if this case were to proceed, by consolidation, to trial on the merits at this time.

Dated: May 1, 2020

THE MCCARTHY PLAINTIFFS,  
By their attorneys,

/s/ David D. Jensen  
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Admitted *Pro Hac Vice*  
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THE CEDRONE PLAINTIFFS,  
By Their Attorneys

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 1, 2020.

/s/ Gary Klein  
Gary Klein